IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 8518 of 2007(L)

PETITIONER:

K.P.ANTONY KAKKASSERY HOUSE,
P.O.MATTOM, THRISSUR.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
THRISSUR, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, THRISSUR.

3. THE DISTRICT TRANSPORT OFFICER,
K.S.R.T.C., THRISSUR.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.
GOVERNMENT PLEADE SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ALONG WITH W.P.(C) NO.20438/07 ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NOs.8518,20438 OF 2007

DATED THIS THE 7th DAY OF AUGUST, 2007

JUDGMENT

In these two writ petitions, the petitioners challenge the orders of the Regional Transport Authority and the State Transport Appellate Tribunal by which the applications for permit in the place of defaulted service has been rejected on the ground that the same would violate a notified scheme. The contention advanced before me is that the scheme itself permits continuation of the existing operators since the application for permit is in the vacancy of a defaulted service. By virtue of the draft scheme itself there cannot be any objection in granting permit is the contention raised before me**.**

2. The learned Government pleader on the basis of the statement filed in W.P.(c)No.8518/07 opposes the prayer of the petitioners for grant of permit. He would point out that the grant of permit in a vacancy is also a new permit which would attract the prohibition under the Scheme.

3. I have considered the rival contentions in detail. The provision in the Scheme, which is relied upon by the petitioners is Clause 4 of the schedule to Ext.P5, which reads thus:

"4.	Whether the services are to be operated by the State Transport Undertaking to the exclusion of other persons or otherwise.	In the Private Sector, permits, regular and temporary existed on or prior to 18.4.2007 alone will continue as such. Fresh permit will be given to the State Transport Undertaking Only"

4**.** The route in question is not a city route. Just because the petitioners have applied for permit in a vacancy caused by a default by one of the operators the permit applied for, does not become an existing one coming within the purview of the above said Clause. Petitioner's application is a fresh application for a regular permit. One of the petitioners has got another contention that what he has applied for is a renewal of a temporary permit and by virtue of the above Clause he is entitled to get the permit renewed in view of the words 'as such' occurring in the above said Clause. His contention is that since he is an existing temporary permit holder, the temporary permit is liable to be renewed. I am not satisfied that the interpretation sought to be put by the petitioners on the above Clause is sustainable. The words 'as such' would only mean as existed prior to the scheme. Once period of temporary permit expires, then renewal of the same cannot be permitted in view of the above said Clause. In the above circumstances, I do not find any

merit in these writ petitions and accordingly, the same are dismissed.

S. SIRI JAGAN, JUDGE

Acd